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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CENTRAL EXCISE APPEAL NO.239 OF 2006

The Commissioner of Customs
& Central Excise .....Appellant

Vs.

M/s.Silver Streak Welding Products
India Pvt. Ltd. ....Respondent

Mr. R.V. Desai, Seniolr Counsel with Mrs.N.V. Masurkar and Mr.R.C. Master and H.P. Chaturvedi, for the Appellant.
Mr. M.H.Patil with Ms. Aparna Hirandagi, for Respondent

CORAM: F.I. REBELLO &
J.P.DEVADHAR,JJ.
DATED: 20th September,2007

P.C.:

. The Appeal was dismissed by the learned Tribunal relying on the judgment in the case of CCE Surat I vs. Shri Pradeep Kr. Shyam Sukha dated 29th November, 2005. In the instant case the Commissioner authorised the Deputy Commissioner, Central Excise, Nasik-II to seek review. The Adjudicating Authority was Additional Commissioner. This Court in Central Excise Appeal No.3 of 2004 and other connected Appeals decided on April 23, 2007 construing the language of Section 35E(2) as it then stood has held that the power could have been conferred only on the Adjudicating Officer. In the

instant case the authority on whom the power was conferred is not the Adjudicating Authority and consequently we find no error or illegality committed by the Tribunal. Hence question of law as raised does not arise. Hence Appeal dismissed.

(J.P. DEVADHAR, J.) **(F.I.REBELLO, J.)**